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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KIP DREW BAGLEY,
62 SPRING LANE
CANTON, PA 17724

Plaintiff

v.

CUNNINGHAM WIDEMAN ASSOCIATES, LLC
8633 SOUTH BAY DRIVE
ORLANDO, FL 32819

Defendant

NO.:

COMPLAINT

COMES NOW the Plaintiff, Kip Bagley, by and through his attorneys Lenahan & Dempsey, P.C. by George E. Mehalchick, Esq. and for his Complaint avers as follows:

1. Plaintiff, Kip Bagley, is an adult competent individual who resides at 62 Spring Lane, Canton, PA 17724.

2. Defendant, Cunningham Wideman Associates, LLC, is, upon information and belief, a Florida Corporation with a registered office address located at 8633 South Bay Drive, Orlando, FL 32819.

3. At all times relevant to this matter, Defendant Cunningham Wideman Associates, LLC owned certain property and real estate located at 225 Canton Street, Troy, PA 16947.

4. At all times relevant to this matter, Defendant, Cunningham Wideman Associates, LLC leased a property including the parking lot, located at 225 Canton Street, Troy, PA 16947 to the United States Postal Service (Plaintiff attaches what Plaintiff believes to be a true and correct copy of this Lease as Exhibit "A").

5. On April 12, 2019, Plaintiff Kip Bagley was employed as a mail carrier by the United States Postal Service, with a principal place of business at the Troy Pennsylvania Post Office, located at 225 Canton Street, Troy, PA 16947.

6. At all times relevant to this matter, the premises that Defendant Cunningham Wideman Associates, LLC leased to the United States Postal Service, as described above, and specifically the parking lot, were in a deplorable condition rendering the parking lot dangerous and unsafe for any person walking in the parking lot.

7. At all times relevant to this matter, the premises, including the parking lot, as described above, and which were in a deplorable, dangerous and unsafe condition, were owned by Defendant, Cunningham Wideman Associates, LLC, who was responsible for the inspection, maintenance, operation, safety, repair, custody and control of the premises.

8. At all times relevant to this matter, Defendant, Cunningham Wideman Associates, LLC was fully aware of or should have been aware of the dangerous and unsafe condition of its premises and the hazards presented to foreseeable pedestrians.

9. At all times relevant to this matter, Defendant, Cunningham Wideman Associates, LLC, was aware or should have been aware that the parking lot posed a foreseeable risk of harm to individuals walking in the parking lot due to the dangerous and unsafe condition of its premises.

10. At all times relevant to this matter, Defendant, Cunningham Wideman Associates, LLC, acted individually and through its agents, servants, workers and employees, all conducting themselves within the course and scope of their employment/agencies.

11. On April 12, 2019, Plaintiff, Kip Bagley, while preparing for his route, and while pushing a flat metal cart across the parking lot described above, stepped into a hole in the pavement, a condition created by the Defendant, Cunningham Wideman Associates, LLC.

12. At all times relevant to this matter, Plaintiff Kip Bagley, acted reasonably and prudently and was not contributorily negligent under the circumstances then and there existing.

13. As a direct and proximate result of the negligence, carelessness and recklessness of the Defendant, Cunningham Wideman Associates, LLC, to be detailed, Plaintiff Kip Bagley suffered serious, permanent and disabling injuries and damages including but not limited to the following:

- a) Traumatic injury to the right knee;

- b) Medial compartment narrowing of the right knee;
- c) Chondromalacia of the right knee;
- d) Joint effusion;
- e) Ruptured Baker's Cyst;
- f) Articulate cartilage defect in the weight bearing posterior central aspect of the medial femoral condyle;
- g) Focal chondromalacia of the internal facet of the patella;
- h) Post traumatic arthritis right knee;
- i) Hamstring tendinitis right thigh;
- j) Right medial collateral ligament injury right knee;
- k) Tenderness over the distal iliotibial IT band;
- l) Antalgic and dysfunctional gait;
- m) Edema;
- n) Decreased sensation;
- o) Chronic pain;
- p) Embarrassment, humiliation and anguish;
- q) Diffuse and severe trauma to the nerves, bones, joints, muscles, fibers tissues, tendons and ligaments of the body;
- r) Restrictions in the performance of work and activities of daily living;
- s) Aggravation of pre-existing conditions;
- t) Any and all medical conditions which are described in the medical records and/or which may develop in the future as a result of the April 12, 2019 fall.

14. As a direct and proximate result of the negligence carelessness and recklessness of Defendant Cunningham Wideman Associates, LLC Plaintiff Kip Bagley, was forced, or may be forced, to undergo medical treatment and testing including but not limited to:

- a) X-Rays;
- b) Diagnostic studies;
- c) Physical therapy;
- d) Injection therapy;
- e) Use of pain medication;
- f) All other treatment and therapies listed in Plaintiff's medical records.

15. As a direct and proximate result of the negligence, carelessness and recklessness of Defendant Cunningham Wideman Associates, LLC as more fully set forth above and below, Plaintiff Kip Bagley has sustained serious and permanent injuries and has incurred, and in the future, will incur expenses for medical treatment, and liens for medical treatment in an amount not yet ascertained and therefore a claim is made.

16. As a direct and proximate result of the negligence, carelessness and recklessness of Defendant Cunningham Wideman Associates, LLC, as more fully set forth above and below, Plaintiff, Kip Bagley sustained serious and permanent injuries all of which render him sick, sore, lame and disabled and which cause great mental anguish and physical pain which he will continue to suffer into the indefinite future.

17. As a direct and proximate result of the negligence, carelessness and recklessness of Defendant Cunningham Wideman Associates, LLC, as more fully set forth above and below, Plaintiff Kip Bagley has suffered serious injuries and permanent impairment of bodily function.

18. As a direct and proximate result of the negligence, carelessness and recklessness of Defendant Cunningham Wideman Associates, LLC, as more fully set forth above and below, Plaintiff Kip Bagley has suffered physical pain and suffering, mental anguish, humiliation, emotional distress, discomfort, inconvenience, the loss of ability to perform activities of daily living and the loss of the ability to enjoy the pleasures of life, all of which will be permanent in nature and accordingly will continue into the indefinite future.

19. As a direct and proximate result of the negligence, carelessness and recklessness of Defendant Cunningham Wideman Associates, LLC, as more fully set forth above and below, Plaintiff, Kip Bagley, has sustained the loss of ability to perform household services and activities of daily living.

20. As a direct and proximate result of the negligence, carelessness and recklessness of Defendant Cunningham Wideman Associates, LLC, as more fully set forth above and below, Plaintiff Kip Bagley sustained and/or will sustain a loss of earnings including past, present and future along with a loss of earning capacity and a shortening of his work life expectancy.

21. The accident and resulting injuries, damages and losses to the Plaintiff Kip Bagley, were caused by the negligence, carelessness and recklessness of Defendant Cunningham Wideman Associates, LLC, as more fully set forth above and below, and were not caused by any negligence, carelessness and/or recklessness of the Plaintiff Kip Bagley.

PLAINTIFF, KIP BAGLEY

V.

DEFENDANT, CUNNINGHAM WIDEMAN ASSOCIATES, LLC.

22. Plaintiff incorporates by reference paragraphs 1 through 21 as though the same were set forth at length.

23. At all times relevant to this matter, the premises, including the parking lot as described above, and which were in a deplorable dangerous and unsafe condition, was owned by Cunningham Wideman Associates, LLC, who was responsible for the inspection, maintenance, operation, safety, repair, custody and control of the premises.

24. Defendant Cunningham Wideman Associates, LLC owed the foreseeable Plaintiff, Kip Bagley, duties of care as landowners and property supervisors on the date of loss, April 12, 2019.

25. Defendant Cunningham Wideman Associates, LLC, acted negligently, carelessly and recklessly with regard to Plaintiff, Kip Bagley at all times relevant to this matter and its negligence, carelessness and recklessness were the proximate and legal cause of the fall and injuries sustained by the Plaintiff, Kip Bagley as described previously.

26. The negligence, carelessness and recklessness of the Defendant Cunningham Wideman Associates, LLC consisted of inter alia the following:

- a) Failure to maintain the subject premises in a safe and proper condition;
- b) Failure to timely inspect the subject premises to determine whether dangerous conditions existed on the property;

- c) Failure to maintain a safe place for foreseeable individuals stepping onto or walking on the subject premises, including the Plaintiff;
- d) Failure to exercise reasonable care to maintain and keep up the subject premises in a reasonably safe condition for those foreseeably stepping onto or walking on the premises;
- e) Allowing dangerous and hazardous conditions to exist on the subject premises;
- f) Failing to take reasonable steps to remedy dangerous and hazardous conditions on the subject premises when they knew or should have known that such steps were necessary;
- g) Failure to train, supervise and direct their agents, servants, workers and employees so as to prevent dangerous and hazardous conditions from developing on and continuing to exist on the subject premises;
- h) Failure to warn, by signage or otherwise, Plaintiff and/or others foreseeably on the premises of the dangerous and hazardous conditions of the subject premises;
- i) As landowners failing to prevent the development of dangerous and hazardous conditions on the subject premises;
- j) Failure to have in effect necessary and appropriate maintenance, repair and inspection procedures to prevent the formation of dangerous and hazardous conditions on the subject premises;
- k) Failure to promptly identify, correct and repair dangerous and hazardous conditions on the subject premises;
- l) Failure to recognize themselves and/or through their agents, servants, workers and employees, the dangerous and hazardous conditions on the subject premises;
- m) Allowance of dangerous and hazardous defects to exist on the subject premises at all times relevant to this matter;
- n) Allowance of a dangerous condition of disrepair to exist on the subject premises;
- o) Allowing conditions of hazard, defect, disrepair and unsafety to exist on the premises which they owned despite knowing the dangers posed to those foreseeably and legally on the premises including individuals such as employees of the United States Postal Service walking on the property;
- p) Allowance of artificially created dangerous and hazardous conditions to exist on the premises at all times relevant to this matter;

- q) Failure to redesign, reconstruct and/or repair the dangerous and hazardous conditions on the subject premises.

27. As a direct and proximate result of Defendant Cunningham Wideman Associates, LLC's negligent, careless and reckless conduct, Plaintiff Kip Bagley, suffered severe and permanent personal injuries and damages as more fully outlined in the preceding paragraphs.

WHEREFORE, Plaintiff Kip Bagley demands judgment in his favor in an amount in excess of \$75,000.00 with interest, costs, delay damages and other such relief as this Court deems appropriate.

Respectfully submitted,

Lenahan & Dempsey, P.C.

/s/ George E. Mehalchick, Esq.
Attorney for Plaintiff